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UNITED STATES MARINE CORPS

U.S. Marine Corps Forces, Central Command
7115 South Boundary Blvd.
MacDill AFB, FL 33621-5101

2. OPERATION CODE

- X ORIGINATOR OF ROUTE SHEET
- A APPROPRIATE ACTION
- B SIGNATURE
- C CONCURRENCE
- D INFORMATION
- E RETENTION
- F RETURN TO
- G COMMENT(S)

4. RTNG	5. OPR CODE	6. ADDRESSEES	7. DATE		8. INITIALS	
			IN	OUT	CONCUR	NON CONCUR
8	B	COMMANDER	12/06/11 09:45			
7	A	CHIEF OF STAFF	12/01/11 15:39	12/01/11 15:40		
4	A	STAFF SECRETARY	11/28/11 11:36	11/28/11 11:36		
6	A	STAFF SECRETARY	11/30/11 07:43	11/30/11 07:44		
3	A	SJA	11/28/11 10:06	11/28/11 10:25		
2	A	SJA DEPUTY	11/28/11 10:05	11/28/11 10:05		
5	A	SJA DEPUTY	11/29/11 17:27	11/29/11 17:27		
1	A	SJA ASSISTANT	11/28/11 09:45	11/28/11 09:46		

1. DATE:	28 Nov 11 09:36	
3. SUBJECT:	NCIS INVESTIGATION INTO ALLEGED LAW OF WAR VIOLATIONS,	
9. NATURE OF ACTION REQUIRED	ORIGINATOR INITIALS	DUE DATE
Routine (b)(3) 10 USC 130b, (b)(6), (b)(7)(c)		28 Dec 11
10. ACTION OFFICER (NAME, GRADE, SECTION, EXT)	(b)(3) 10 USC 130b, (b)(6), (b)(7)(c)	
11. REMARKS AND SIGNATURE:		
<p>PURPOSE: 1. To obtain Commander's signature on letter to Director, NCIS indicating that since the NCIS investigation has not produced evidence of substantiated misconduct by members of 3/8, COMUSMARCENT considers the matter closed.</p> <p>2. To obtain the Commander's signature on the First Endorsement approving NCIS investigation and closing this matter.</p> <p>BACKGROUND: Gen Helland asked Director, NCIS to reopen and continue this investigation in August, 2009. Gen Dunford repeated the request in July, 2010. Since that time, NCIS has interviewed all the principals, in addition to numerous other interviews. Since the fall of 2010, NCIS has provided MARCENT OSJA approximately 13 interim Reports of Investigation (ROI) (+/- one per month).</p> <p>DISCUSSION: The ROIs contain 105 exhibits, mostly of interviews of relevant members of 3/8 and a number of personnel who were not members of 3/8 but would have been in a position to assess the credibility of war crime allegations, including at least two General Officers. The overwhelming weight of all the evidence supports no substantiated misconduct, but does reveal the effects of operational stress, the fog of war, hearsay, rumor, and personality conflicts among some officers of 3/8.</p> <p>RECOMMENDATION: 1. The Commander sign letter to Director, NCIS, informing him that COMUSMARCENT does not intend on pursuing any legal action, and that he considers this matter closed.</p> <p>2. The the Commander sign the First Endorsement approving NCIS investigation and closing this matter.</p> <p>Tab A is an information paper intended to provide background regarding the subject investigation.</p> <p>Tab B is the command investigation endorsement.</p> <p>Tab C is letter to Director, NCIS from COMUSMARCENT considering the matter closed, routed for signature of COMUSMARCENT.</p> <p>Related Tasker Number:</p>		
FILE NUMBER:	DATE RECEIVED:	
20111128-Doc-003	28 Nov 11 09:36	

VER 1-08

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SJA
21 Nov 2011

INFORMATION PAPER

Subj: LEGAL REVIEW OF NCIS INVESTIGATION AND JAGMAN
INVESTIGATION INTO THE ALLEGATIONS OF LAW OF WAR
VIOLATIONS BY MEMBERS OF 3/8 IN RAMADI IN 2006

1. Purpose. To inform the Commander about the subject investigations.

2. Background. In March 2009, an inquiry by the II MEF SJA prompted the MARCENT OSJA to establish email and telephonic communication with the primary complainant, (b)(3) 10 USC 130b, (b)(6), (b)(7)(c), regarding 3/8 and alleged war crimes in Ramadi in 2006.

a. (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) made allegations of misconduct against three officers: (b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

(b)(3) 10 USC 130b, (b)(6), (b)(7)(c). The misconduct ranges from assaulting a detainee to falsifying records for awards, falsifying operational information to justify air strikes and artillery, indiscriminately firing weapons into the city of Ramadi, gratuitously damaging personal property of Iraqis, and encouraging Marines to commit war crimes through indiscriminate killings. He indirectly accuses the (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) of implicitly and overtly encouraging this misconduct, failing to report the misconduct, and protecting the alleged wrong-doers.

b. (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) made these complaints in writing in several NCIS statements and in an Inspector General of the Marine Corps (IGMC) complaint. He also identified 17 witnesses (including himself, (b)(3) 10 USC 130b, (b)(6), (b)(7)(c)) who can substantiate the misconduct.

c. In November 2007, NCIS conducted an investigation into one incident of alleged misconduct by (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) the stabbing of an Iraqi detainee during a cordon and search. NCIS interviewed a few witnesses and closed the case as "unsubstantiated." The IGMC briefly looked into the awards falsification matter, and found it was unsubstantiated. IGMC is adamant in their refusal to re-open the case or to consider any issue relating to this matter.

d. In July 2009, COMUSMARCENT convened a Preliminary Inquiry to look into (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) allegations. The Investigating Officer concluded that the matter needed more

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investigation. COMUSMARCENT concurred and in writing, asked the NCIS Director to reopen the investigation to look at

(b)(3) 10 USC 130b, (b)(6), (b)(7)(c) specific allegations and witnesses.

e. This renewed effort by NCIS has been thorough, yet has not revealed any "smoking gun" evidence to substantiate (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) allegations. The ROIs contain 105 exhibits, mostly of interviews of relevant members of 3/8 and a number of personnel who were not members of 3/8 but would have been in a position to assess the credibility of war crime allegations, including at least two General Officers. The overwhelming weight of all the evidence supports no substantiated misconduct, but does reveal the effects of operational stress, the fog of war, hearsay, rumor, and personality conflicts among some officers of 3/8.

f. On 9 August, 2010, (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) was assigned as an IO to conduct a Command Investigation into this matter. (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) found nothing that would substantiate misconduct either.

3. Discussion. Between the NCIS investigation and (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) investigation, this matter has been thoroughly investigated and satisfies the requirements of the DoD and USMC Law of War Programs.

4. Recommendation. The Commander sign the First Endorsement approving (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) investigation and closing this matter and sign the memo to Director, NCIS, thanking him for the additional NCIS investigation and informing him that COMUSMARCENT does not intend on pursuing any legal action, and that he considers this matter closed.

Prepared by:

(b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

Approved by:

(b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

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UNITED STATES MARINE CORPS
U.S. MARINE CORPS FORCES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
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IN REPLY REFER TO:
5830
SJA
15 DEC 2011

FIRST ENDORSEMENT on (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) Ltr 5830 SJA of 31 Dec 10

From: Commander, U.S. Marine Corps Forces, Central Command
To: File

Subj: COMMAND INVESTIGATION REGARDING ALLEGATIONS OF LAW OF
ARMED CONFLICT VIOLATIONS BY MEMBERS OF 3RD BN, 8TH MARINES
IN RAMADI, IRAQ FROM MARCH-SEPTEMBER 2006

1. This matter has been reviewed by the MARCENT SJA and it is in substantial compliance with ref (a).
2. The findings, opinions, and recommendations of the Investigating Officer are approved.
3. This investigation concludes that 3/8's tour of duty in Ramadi, Iraq in 2006 was plagued by a less than optimal command climate, personality conflicts among the officers, and the operational stress attendant in that theater of operations.
4. Neither this investigation nor the NCIS investigation into the same matter substantiate any misconduct by any 3/8 personnel, thus, I am directing that no further investigation be completed and this matter be closed.
5. My point of contact for this matter is the MARCENT SJA,

(b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

(b)(6)

T. D. WALDHAUSER



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IN REPLY REFER TO:

5830

SJA

15 DEC 2011

From: Commander, U.S. Marine Corps Forces, Central Command
To: Director, Naval Criminal Investigative Service

Subj: INVESTIGATION INTO ALLEGATIONS OF MISCONDUCT BY
MEMBERS OF 3rd BATTALION, 8th MARINES (3/8) WHILE
DEPLOYED TO RAMADI, IRAQ IN 2006

Ref: (a) 20NOV07-CALE-0428-7XMA

1. At MARCENT request, you re-opened your investigation into this matter and conducted additional interviews. I thank you for your professional and thorough investigation.

2. After reviewing the reference, I have concluded that the NCIS investigation, while thorough and comprehensive, has not substantiated misconduct by members of 3/8 while the Battalion served in Ramadi, Iraq, during the summer of 2006. Accordingly, I consider this matter closed.

3. My POC for this matter is (b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

(b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

(b)(6)

T. D. WALDHAUSER

Copy to:
CLNC NCIS Field Office